



# **THE ATTORNEY GENERAL OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

August 29, 1960

Honorable Arthur W. Young, Chairman  
Texas Seed and Plant Board  
Texas Technological College  
Lubbock, Texas

Opinion No. WW-925

Re: Whether Article 67a, Vernon's  
Civil Statutes, authorizes the  
State Seed and Plant Board to  
prohibit the sale in Texas of  
certified or registered seed  
from other states produced un-  
der minimum standards lower  
than those established by the  
Seed Board.

Dear Mr. Young:

In your letter requesting an opinion from this office, you ask whether the State Seed and Plant Board is authorized to prohibit the sale in Texas of certified or registered seed from other states produced under minimum standards lower than those established by the Seed Board.

Article 57, Vernon's Civil Statutes, as amended by House Bill 105, Acts of the 56th Legislature, Regular Session, 1959, states in part:

"The administration of the licensing provisions of Title 4, Chapter 2 of the Revised Civil Statutes and of Chapter 93, Acts of the Forty-first Legislature, First Called Session, 1929 . . . shall be vested in a Board to be known as the State Seed and Plant Board . . . All applicants for license as a registered or certified seed grower shall furnish such information as the Board may require . . . The Board shall approve and issue licenses for registered and certified seed growers, promulgate rules and regulations governing . . . registered or certified seeds . . ."

Section 4(b), Article 67a, Vernon's Civil Statutes, provides:

"The Commissioner of Agriculture shall promulgate rules . . . under which cotton, alfalfa, corn and sorghum seed for planting purposes may be shipped into Texas, and providing that no cotton, alfalfa, corn or sorghum seed for planting purposes may be shipped into Texas for planting purposes unless said seed meet the requirements as set forth by the Commissioner of Agriculture. . . . Said Commissioner, through his agents . . . may investigate the quality of the seed to be shipped into the State . . . and further providing that the Commissioner of Agriculture shall have full authority to refuse permission to any applicant to ship cotton, alfalfa, corn or sorghum planting seed into Texas when the records and information of the agents of said Commissioner of Agriculture show the seed to be of inferior quality, lacking prescribed varietal purity, from diseased fields, or other reasons prescribed in the rules and regulations under the provisions of this Section."

Section 4(f), Article 67a, Vernon's Civil Statutes states:

"Providing that all planting seed shipped into Texas and bearing the label denoting Registered or Certified Seed shall have been produced under standards equal to the existing standards in Texas for such Class of seed. Such seed coming into the State of Texas and being declared by the Commissioner of Agriculture not to have been produced under Registration and Certification standards equal to the Texas standards, shall not bear the labels or be represented as Registered or Certified Seed . . . . Such seed may bear the Registration or Certification tag issued in the State of origin provided such tags are plainly marked 'These Seed do not meet the requirements of Registration or Certification in Texas'."

It is the opinion of this office that by the enactment of Section 4(f), Article 67a, Vernon's Civil Statutes, the Legislature did not give the State Seed and Plant Board the authority to prevent the movement into Texas of seed under a certified or registered seed label from any other state even though the minimum certification requirements are lower than those in Texas. However, the Legislature clearly stated that such seed cannot bear the tag or be represented as registered or certified seed, and the tag must state that the seeds "do not meet the requirements of Registration or Certification in Texas."

It is the further opinion of this office that under Section 4 (b), Article 67a, Vernon's Civil Statutes, that the Commissioner of Agriculture may refuse to permit cotton, alfalfa, corn and sorghum seed for planting purposes to be shipped into Texas when the records and information of the Commissioner show the seed to be of inferior quality or have other defects as set out in Section 4(b), Article 67a, Vernon's Civil Statutes, above cited.

This opinion is not to be construed as holding that an out-of-state producer must not meet the requirements of Article 93b, Vernon's Civil Statutes, which is the Texas Seed Law, Attorney General's Opinion 0-2554.

#### S U M M A R Y

Section 4(f), Article 67a, Vernon's Civil Statutes, does not authorize the State Seed and Plant Board to prevent the shipment into Texas of certified and registered seeds produced in other states even though the minimum requirements for certification in other states are lower than those in Texas. However, such seed cannot bear the tag or be represented as registered or certified seed, and the tag must state that the seeds "do not meet the requirements of Registration or Certification in Texas."

The Commissioner of Agriculture does have authority to refuse to permit cotton, alfalfa, corn or sorghum seed for planting purposes to be shipped into Texas when

Honorable Arthur W. Young, Page 4 (WW-925)

his records and information show the seed to be of inferior quality or for other reasons listed in Section 4(b), Article 67a, Vernon's Civil Statutes.

Yours very truly,

WILL WILSON  
Attorney General of Texas

  
By

Martha Joe Stroud  
Assistant

MJS:mm

APPROVED:

OPINION COMMITTEE  
W. V. Geppert, Chairman

Ben M. Harrison  
Marietta Payne  
C. K. Richards

REVIEWED FOR THE ATTORNEY GENERAL

BY: Houghton Brownlee, Jr.